

REMARKS

The Office Action of December 4, 2008 was based on Claims 1-6 as previously pending. Claims 1-6 remain pending and reconsideration of the subject application is respectfully requested based on the following remarks.

Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kroy et al. (US 5,252,294) in view of Barbera-Guillem (S Pub. 2002/0172621). Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kroy and Barbera-Guillem in further view of Mainquist et al. (US 6,534,014).

The Examiner asserts that Kroy teaches a chamber array arrangement comprising a container (plate) having at least two chambers (plate has depressions which can be tapering circular wells, col. 3, lines 9-15). A particular chamber can hold at least one probe carrier (col. 4, lines 31-41) wherein the probe carrier is essentially freely movable in said chamber (col. 4, lines 31-41). The Examiner further asserts that the container is provided with a circular bottom having a surface area smaller than the bottom surface area of a well of a microtiter plate (col. 3, lines 9-15).

The Applicant respectfully disagrees with the Examiner's apparent understanding of the teaching of Kroy. The Applicant notes that the description of Col. 3, lines 9-15 and the associated illustrations (Figs. 1-5) are with respect to the cavities 2 and cooperating humps 4 only, not a shape or size of the overall structure 1 or cover 3.

Kroy offers no teaching or even suggestion of a circular shape for the structure 1 and cover 3. In contrast, the illustrations of Figs. 1-5 indicate the structure 1 and cover 3 having flat sides which would preclude a circular shape. Further, Kroy describes "The block 1 with the cavities 2 contains them advantageously according to a raster measure in an X-Y distribution over the surface of the preferred silicon crystal as an array or in matrix form (see Fig. 3)..." (col. 3, lines 42-46). Further, the top views of Figs. 16 and 18 illustrating a plate cooler which the ordinary artisan would construct to match the size and shape of the plate are clearly square or rectangular in shape, not circular. The Applicant further notes that neither the Barbera-Guillem or

Mainquist references teach or even suggest anything other than a generally square or rectangular shape of a device.

The Applicant further notes that Claim 1 as currently pending recites "...the **container**... having a surface area which is smaller than the bottom surface area of a **well** of a standard 24, 96 or 384 well microtiter plate" (emphasis added). This aspect of the Applicant's Claim 1 would allow a plurality of relatively small individual ones of the claimed container to be inserted **into** the individual wells of a much larger microtiter plate. This aspect is not taught by the art of record and the Applicant does not believe that the ordinary artisan would find the combination of features of Claim 1 to be obvious considering the art of record and the nature of the problems addressed.

From the foregoing, the Applicant believes that the subject application is patentable under the requirements of 35 U.S.C. 103(a) in view of the Kroy, the Barbera-Guillem, and the Mainquist et al. references. Accordingly, the Applicant respectfully requests that the remaining rejections under 35 U.S.C. 103(a) be withdrawn and the prompt issuance of a notice of allowability. However, should there remain any further impediments to the issuance of a notice of allowability that might be resolved by a telephone interview, the Examiner is respectfully requested to contact the Applicant's undersigned representative at the indicated telephone number.

No Disclaimers or Disavowals

Although the present communication includes characterizations of claim scope and referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Application No.: 10/783,409
Filing Date: February 20, 2004

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-owned patent of the present application's assignee.

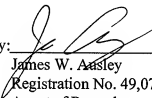
Serial Number	Title	Filed
10/783,412 (U.S. Patent No. 7,219,800)	MODULAR ARRAY ARRANGMENTS	05/22/2007

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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